

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	1:08-cr-0224 OWW
	)	
Plaintiffs,	)	ORDER RE IN CAMERA
	)	INSPECTION OF WITNESS
v.	)	INFORMATION
	)	
ROBERT C. HOLLOWAY, et al.,	)	
	)	
Defendants.	)	
	)	
	)	

An in camera inspection was conducted by the Court pursuant to the requests made by Defendants under the authority of the Brady, Henthorn, and Franks cases. The following represent the results of the in camera review by the Court of the personnel records of each of the subject witnesses.

Mark D. Smith

D.A. Investigator Lt. Smith entered service with the Stanislaus County District Attorney's Office May 2, 1994. A review of the personnel file shows that there are no adverse reports of any kind whatsoever. No disciplinary action has ever been taken against Lieutenant Smith. There are no citizen or other complaints. There is no evidence that would require disclosure under Brady, Henthorn, or Franks.

One Internal Affairs complaint exists for Investigator Mark

1 Smith. The complaint was initiated by a co-worker alleging  
2 inappropriate comments and/or conduct. An investigation by  
3 Internal Affairs revealed that the complainant admitted that any  
4 comments were of a joking nature when made, that the complainant  
5 admittedly participated in the exchanges, and did not feel that  
6 the comments were inappropriate. The complainant did not  
7 initiate the investigation. The agency itself did. The  
8 investigation found nothing more than verbal banter and routine  
9 professional interaction and the matter was closed as unfounded  
10 and the allegations were without basis. There is nothing  
11 disclosable based on this Internal Affairs matter for  
12 Investigator Smith.

13  
14 Froilan Mariscal

15 Investigator Mariscal entered service with Stanislaus County  
16 April 5, 2004. A review of the personnel file shows no adverse  
17 reviews, no adverse comments, no disciplinary actions and nothing  
18 that is disclosable under Brady, Franks, or Henthorn.

19  
20 Kirk Bunch

21 Investigator Bunch entered service with Stanislaus County on  
22 February 24, 2001. Review of the personnel file of Kirk Bunche  
23 reveals only positive reviews. There is one citizen complaint  
24 with no adverse personnel actions. There is an Internal "Affairs  
25 file on the complaint.

26 A review of the I.A. file shows that communications between  
27 the complainant and Investigator Bunch did not reveal conduct or  
28 language that was rude or discourteous. Their communications

1 were cordial and the complainant did not exhibit any adverse  
2 reaction to Investigator Bunch during her communications with  
3 him.

4 The Internal Affairs complaint involves alleged rude or  
5 discourteous conduct by Investigator Bunch. The complaint does  
6 not bear on integrity, truth-telling, or any inappropriate  
7 behavior. The complaining witness was unwilling to meet with an  
8 Internal Affairs investigator assigned to the case without the  
9 presence of her relative, who is an attorney, to permit  
10 evaluation by the District Attorney's Office for the Internal  
11 Affairs investigatory process. The matter was resolved as  
12 unfounded. The complainant is a friend of Bob Holloway.

13 No information as to Investigator Bunch is disclosable under  
14 Brady, Franks, or Henthorn.

15 All three individuals were Stanislaus County District  
16 Attorney Investigators.

17 The Court has retained copies of the reviewed files which  
18 have been retained under seal. The Court orders that these files  
19 be sealed, pending review by a higher court, or by further order  
20 of this Court.

21  
22  
23 IT IS SO ORDERED.

24 Dated: November 17, 2009

/s/ Oliver W. Wanger  
UNITED STATES DISTRICT JUDGE